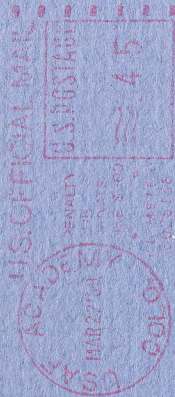


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**THE JOSEPH A. REICH, SR.
DISTINGUISHED LECTURE
ON WAR, MORALITY, AND THE
MILITARY PROFESSION**

Number One



EMERGENCY ETHICS

PROFESSOR MICHAEL WALZER

School of Social Science

The Institute for Advanced Study at Princeton

21 November 1988

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JOSEPH A. REICH, SR.

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Joseph A. Reich, Sr. was born in Franklin, Pennsylvania on August 15, 1903, the oldest of four children of Charles and Emma Reich. In 1911 the family moved to Boulder, Colorado before settling in Denver in 1912.

After spending several years as a salesman for Armour & Company in New Mexico and Arizona, he was transferred in 1932 to Colorado Springs to be a branch manager. Thus began his long career of service to the City of Colorado Springs. In 1934, he met and married Kathleen Conway. They had three children, Joseph A. Jr., Mary Kathleen, and Fredric C. Mrs. Reich passed away in December, 1984.

He was commissioned a 2nd Lieutenant in 1939 in the Army Quartermaster Reserve. Medical reasons prevented his serving in World War II, and he was eventually given a medical discharge.

During this period he became more involved in the activities of his community. He served on the committee which was responsible for bringing Camp Carson (Ft. Carson) to the area at the beginning of World War II. He also headed the Community Chest, forerunner of the United Way, for four years, and led the Red Cross Drive in 1944. He was one of the original directors of the local USO and has remained one of its staunchest supporters through the years.

Late in the war years Armour decided to close its Colorado Springs branch, and it was then that Reich decided to remain in Colorado Springs and purchase the Swiss Chalet Restaurant at 117 East Pikes Peak Avenue. He operated this fine restaurant until he sold it in the fall of 1967. It was during this time that he developed the Little Chalet Salad Dressing which he has marketed nationwide as a specialty food item. The business is now run by his son Fredric in Denver, although he does remain active in its management.

In the summer of 1948, while serving as Vice President of the Chamber of Commerce, Reich, who was always known for coming up with 'impossible dreams,' had probably his most impossible dream. While getting a haircut he noticed a dateline from Washington that stated that a special committee had been appointed to determine the need for and location of an academy for the United States Air Force.

Upon leaving the barber shop, he went to the Chamber office and announced that Colorado Springs should bid for this prospective academy if for no other reason than to bring publicity to Colorado Springs. It was from this idea that a committee of leading citizens was formed which eventually brought the Air Force Academy to Colorado Springs.

He served several years as Chairman of the Military Affairs Committee of the Chamber of Commerce and was one of the founders of the Area Chiefs of Staff, which is a committee to ensure accurate and timely communication between military commands and the principal administrators of the business and civic community. His concern for and dedication to the military have been service wide. He was the founder of the Colorado Springs Navy League and has served at both local and state offices in the Association of the United States Army and the Air Force Association. He has received Distinguished Service Awards from the secretaries of the Army, Navy, and Air Force for his contributions to their respective services.

Having joined the Boy Scouts in Denver in 1914, it was inevitable that he would become involved with them in Colorado Springs. He served for several years on the executive board of the Pikes Peak Council and was active in bringing the National Jamboree to Colorado Springs in 1960. He is holder of the Silver Beaver Award and was honored in 1981 with a Good Scout Award.

He is a devout Catholic and has been a leading layman in the church since first coming to Colorado Springs. He has chaired several fund drives for Catholic schools and church needs. In 1960 he was recognized by Pope John XXIII when he was made a Papal Knight of St. Gregory. He is also a Knight of the Holy Sepulcher.

He has always been ready, willing, and able to spearhead a cause for any group regardless of its size or profile. He served as a member of the board of Benet Hill Academy, was a former trustee of the Associated Colleges of Colorado, was President of the Colorado Wyoming Restaurant Association, served several years and was Chairman of the Penrose Hospital Board of Lay Trustees, served over 20 years and was Chairman of the City County Health Board, headed up the Latvian Memorial, was past director of the First National Bank and Ft. Carson National Bank, was district governor of Kiwanis

International, served as a member of the Colorado Commission on the Environment and the Colorado Commission on Cancer, and continues to be active in the Air Force Academy Foundation.

On December 31, 1950 the Gazette Telegraph named him Man of the Year for his civic contributions.

INTRODUCTION OF THE LECTURER

**BY COLONEL MALHAM M. WAKIN
ASSOCIATE DEAN AND PROFESSOR AND HEAD
DEPARTMENT OF PHILOSOPHY AND FINE ARTS**

Good evening ladies and gentlemen and welcome to the inaugural lecture in the Joseph A. Reich, Sr. Distinguished Lecture Series on War, Morality, and the Military Profession. As we initiate this series of ethics lectures, we pause for a moment to say thank you to our benefactor, Papa Joe, as he is known so affectionately by the Air Force Academy family, for endowing this series. We know that many generations of Academy cadets will benefit from and be influenced by the lectures that will issue from this stage in this crucially relevant area. Thank you, from all of us Mr. Reich.

We are enormously pleased to have Professor Michael Walzer with us tonight to provide the first lecture of this important program. He is currently a member of the permanent faculty at the School of Social Science, The Institute for Advanced Study at Princeton. He did his undergraduate work at Brandeis University, studied at Cambridge University on a Fulbright Fellowship, and completed his Ph.D. at Harvard University. He began his college teaching career at Princeton, teaching there from 1962-1966, then taught at Harvard for 14 years, and has been at the Institute for Advanced Study at Princeton since 1980. He serves as the editor of the journal, *DISSENT*, as contributing editor of *THE NEW REPUBLIC*, and as a member of the Editorial Board of *PHILOSOPHY AND PUBLIC AFFAIRS*. He is a member of the Board of Governors of Hebrew University and the Board of Trustees of Brandeis. He has authored a large number of articles in a variety of scholarly journals and has written 10 books including *OBLIGATIONS: ESSAYS ON DISOBEDIENCE, WAR, AND CITIZENSHIP*, *SPHERES OF JUSTICE*, and, very recently, *THE COMPANY OF CRITICS*. Probably his best known work is the book, *JUST AND UNJUST WARS*, which has received an exceptional amount of attention since its publication in 1977. A chapter of that book entitled "Supreme Emergency" is included in our anthology used

in Philosophy 310 and it is the catalyst for the topic he has agreed to address tonight.

Ladies and gentlemen, please welcome our first speaker in the Joseph A. Reich, Sr. lecture series, Professor Michael Walzer.

EMERGENCY ETHICS

MICHAEL WALZER

I.

My subject in this lecture is "supreme emergency." The phrase is Winston Churchill's, and it refers to the crisis of British survival during the darkest days of World War II.¹ Supreme emergency is a time for heroic decision, when nations and leaders are measured by the measures they take; but it is also a desperate time, when the measures taken are ones we would avoid if we possibly could. I wish no such time on my own country and my fellow citizens. Let this be a theoretical discussion and an educational exercise: we can test our everyday moral perceptions against an extreme case, and we can ask whether there are useful analogies between historical or hypothetical extremity and what passes today for normality. I suggest a certain wariness about the exercise. As hard cases make bad law, so supreme emergencies put morality itself at risk. We need to be careful.

More than a decade ago, in *Just and Unjust Wars*, I worked out an argument about supreme emergency that was driven by Churchill's account of the British crisis and by my own memory of and reflection on the struggle against Nazism.² I took the years 1940 and 1941, when a Nazi victory in Europe seemed frighteningly close, as my model: a supreme emergency exists when our deepest values and our collective survival are in imminent danger. Can moral constraints have any hold upon us at such a time? What can and what should political leaders do when confronting danger on that scale? I gave a philosophically provocative and paradoxical answer to those questions: I argued, first, that the constraints did still have a hold on us and second, that political leaders could do whatever was required to meet the danger. There are no moments in human history that are not governed by moral rules; the human world is a world of limitation, and the moral limits are never suspended—the way we might, for example, suspend *habeas corpus* in a time of civil war. But there are moments when the rules can be and perhaps have to be overridden. They have to be *overridden* precisely

because they have not been suspended. And overriding the rules leaves guilt behind, as a recognition of the enormity of what we have done and a commitment not to make our actions into an easy precedent for the future.

The example in my mind when I first made that argument was the British decision to bomb German cities—specifically the orders issued to bomber crews in the early 1940s to aim at the city center or at residential areas (that is, *not* at military bases, factories, shipyards, warehouses, and so on). The intention of the British leaders at that point in the war was to kill and terrorize the civilian population, to attack German morale rather than German military might. I won't rehearse here the technical arguments urged by Bomber Command, which had more to do with civilian housing than with civilian lives—as if the two were separable targets; but those arguments were not entirely straightforward.³ In order to display the theoretical issue in all its difficulty, it is enough to say flatly that the intention was wrongful, the bombing criminal; its victims were innocent men, women, and children. If soldiers or "munitions workers" were also killed, it was only by accident, a morally defensible side-effect of what remains an immoral policy. But if there was *no other way* of preventing a Nazi triumph, then the immorality—no less immoral, for what else can the deliberate killing of the innocent be?—was also, simultaneously, morally defensible. That is the provocation and the paradox. You can imagine the skepticism with which this account of emergency ethics was greeted, especially in philosophical circles where even the appearance of internal contradiction is taken (as it should be taken) very seriously.⁴ So let me try now to explain the argument.

The doctrine of supreme emergency is a way of maneuvering between two very different and characteristically opposed understandings of morality. The first reflects the absolutism of rights theory, according to which innocent human beings can never be intentionally attacked. Innocence is their shield, and though it is only a verbal shield, a paper shield, no defense at all against bombs and bullets, it is impenetrable to moral argument. The second understanding reflects the radical flexibility of utilitarianism, according to which innocence is only one value that must be weighed against other values in the pursuit of the greatest good of the greatest number.⁵ I put the opposition crudely;

both rights theory and utilitarianism can be developed in complex ways, so that the opposition I have just described is considerably attenuated. But it is never, I think, wholly abolished. Both these moral understandings have claims upon us, and yet they pull us in different directions. It is sometimes said with reference to domestic politics that we should let the courts worry about rights, while congressmen and presidents (and, I suppose, ordinary citizens when they are choosing congressmen and presidents) should think about the greatest good.⁶ But this division of responsibility doesn't work: one has only to look closely at the processes of judicial deliberation and legislative debate to see that the two claims are repeatedly made and repeatedly acknowledged within each. In any case, judicial scrutiny in international politics and especially in wartime is notoriously light, and so the two claims necessarily fasten on the political and military leaders of the nation—else they would have no fastening at all. What is the relative strength of the claims? Neither is strong enough to defeat the other; neither is so weak that we can disregard it. At the risk of philosophical muddle, we must negotiate the middle ground.

Why not opt for absolute rights? I have to begin with absolutism, since it represents a denial of the very existence of anything that might be called "middle ground." Morality is not negotiable. Innocence is inviolable. We may disagree, says the absolutist, over who the innocent people are and how they might be located sociologically, but once we have found them, we have also found the final limits of war-making. To protect the innocent or, at least, to exclude them from deliberate attack, is to act justly. And we must act justly whatever the consequences: *fiat justitia, ruat caelum*. The claim of the moral absolutist is that we only acknowledge the true meaning of justice when we ignore the consequences of acting justly—for justice is literally invaluable, beyond the possibility of estimate or measure. It can't be balanced against anything else; the bookkeeper doesn't exist who could strike such a moral balance. Religious absolutists may believe that God keeps his own accounts; they also believe, however, that human beings are bound by his unqualified prohibitions: "Thou shalt not."

This sense that there are things we must never do, forbidden things, taboos, proscriptions, is very old, perhaps older than anything else in

our moral understanding. Rule utilitarianism, though it no doubt captures some of the reasons for the moral taboos, fails utterly to explain their power. The prohibitions urged upon us by moral absolutists are in fact the common and inescapable rules of moral life. They are external constraints that have long ago been internalized, so that we know the crimes they name not as acts we want to commit but must not, but rather as acts we don't want to commit. Even more, we want *not to commit* them (not to be murderers, for example), and this desire commonly gets stronger, not weaker, when troubles begin and we find ourselves pressed to act badly. When we feel this pressure, we also feel, most of us, the need to resist. But can we sustain our resistance even when disaster looms, when the heavens are really about to fall? At that point absolutism represents, it seems to me, a refusal to think about what it means for the heavens to fall. And the history of the twentieth century makes that refusal very hard to justify. How can we, with our principles and prohibitions, stand by and watch the destruction of the moral world in which those principles and prohibitions have their hold? How can we, the opponents of murder, fail to resist the practice of mass murder—even if resistance requires us, as the phrase goes, to get our hands dirty (that is, to become murderers ourselves)?

These are rhetorical questions, but I acknowledge immediately that they don't always elicit the response they seem to ask for. Absolutism is by definition unresponsive, and even someone ready in principle to move away from an absolutist position might well respond skeptically. He will remind us of how quick some people are to say that the heavens are falling. At the first sign of trouble, they shout "supreme emergency!" and claim exemption from the moral rules. We should always be reluctant to grant such exemptions, for every exemption is also a concession to those who argue that justice has a price, which may sometimes be too high and which we need not always pay. And then the way is open for utilitarian calculation.

Well, what is wrong with utilitarianism? Bentham designed his doctrine for political leaders, and the design seems to have been successful. Hasn't cost/benefit analysis become the standard form of moral reasoning in the arenas of public life? Isn't this the educational core of most university courses on decision theory and policy choice

and, I would guess, on military strategy? We value and respect the moral taboos but consign them largely to the private sphere. We expect our leaders to be goal-oriented, and we judge them more by the goals they attain than by the rules they uphold. "When the act accuses, the result excuses."⁷ How can we avoid, why should we want to avoid, the kind of reckoning this maxim requires?

The problem is that it's too easy to juggle the figures. Utilitarianism, which was supposed to be the most precise and hardheaded of moral arguments, turns out to be the most speculative and arbitrary. For we have to assign values where there is no agreed valuation, no recognized hierarchy of value, no market mechanism for determining the positive or negative worth of different acts and outcomes. Suppose we agree that justice is not in fact beyond measure, invaluable. Then we have to find some way of measuring it, of fixing, for example, the moral cost of murder. How do we do that? Is the cost eight or twenty-three or seventy-seven? Eight or twenty-three or seventy-seven of what? We have no unit of measurement and we have no common or uniform scale. It's not the case, I suppose, that every valuation is idiosyncratic. We are able, for specific purposes (insurance is the common example), to set a dollar price on a human life—though not on the act of taking a human life: the hire of a "hit man" isn't a morally acceptable figure. In any case, market values for lives-at-risk rise and fall for morally irrelevant reasons. And in politics and war, cost/benefit analysis has always been highly particularistic and endlessly permissive for each particular. Commonly, what we are calculating is *our* benefit (which we exaggerate) and *their* cost (which we minimize or disregard entirely). Is it plausible to expect them to agree to our calculations?

Those first and third person plural pronouns ostensibly have no impact on utilitarian calculation: each and every person is valued in the same way; all utilities are measured as if there were a common scale. But this holds in practice only for men and women whose solidarity counter-balances all conflicts of interest among them. When solidarity collapses, in pure or almost pure adversary situations, in war, for example, utilitarian calculation is zero-sum, and "we" commonly attach only negative value to 'their' utilities. Negative valuation is clearest with regard to enemy soldiers when they are actually engaged in combat; but it is likely to extend (unless it is

checked by absolutist prohibitions) across the entire population, first to soldiers who are not actually engaged, then to civilians at work in war-related industries, then to civilians who support the war effort indirectly, then to everyone who supports the supporters and the workers and the soldiers. Finally, no "enemy" life has any positive value; we can attack anyone; even infant deaths bring pain and sorrow to adults and so undermine the enemy's resolve. Of course, we can always juggle the figures and stop short of this horrific conclusion. But it is our sense of the moral taboos that makes us want to stop short—and it is only by reflecting on the meaning of innocence and on the rights of the innocent that we can decide where in fact to stop.

So the weaknesses of utilitarianism lead us back to the theory of rights, and it is rights that fix the everyday constraints on warmaking (and on all adversary engagements). But these constraints seem to depend on some minimal background security of values, just as utilitarianism depends on some minimum solidarity of persons. When our deepest values are radically at risk, the constraints lose their grip, and a certain kind of utilitarianism re-imposes itself. I call this the utilitarianism of extremity, and I set it against a rights normality. The two together, it seems to me, capture the force of the opposed moral understandings and assign to each its proper place. I can't reconcile the understandings; the opposition remains; it is a feature of our moral reality. There are limits on the conduct of war, and there are moments in time when we can and perhaps should break through the limits (the limits themselves never disappear). "Supreme emergency" describes those rare moments when the negative value that we assign—that we can't help assigning—to the disaster that looms before us devalues morality itself and leaves us free to do whatever is militarily necessary to avoid the disaster, so long as what we do doesn't produce an even worse disaster. No great precision is required in calculations of this sort. Just as a jury in a capital case doesn't look for a 51% probability of guilt but for overwhelming certainty, so we can only be overwhelmed by supreme emergency. And, of course, we must always be skeptical about political leaders who are, so to speak, too easily overwhelmed, just as jurors must always be skeptical about those of their fellows who are too quick to place themselves "beyond a reasonable doubt."

II.

But how can we be properly skeptical unless we have some precise understanding of what a *supreme* emergency is and how it differs from the daily emergencies of military life? I want to approach this question indirectly, by asking another. If we are permitted to respond immorally when a disaster threatens us, why can't an individual soldier respond immorally when a disaster threatens *him*? From the standpoint of the combat soldier, war is a rapid succession of supreme emergencies: his life is constantly at risk. But we are very reluctant to allow soldiers to save themselves by killing innocent and helpless people. Consider the standard case of soldiers holding prisoners behind enemy lines. I can't repeat here all the arguments that have been made about this much-discussed and not at all hypothetical example. There is a range of conclusions, and considerable disagreement among commentators, but almost no one would say that the soldiers can kill their prisoners simply in order to reduce the danger to themselves.⁸ Perhaps they can kill them if that is or seems to be absolutely necessary for the success of their mission, but once the mission has succeeded, they are commonly expected to bear some risk, even considerable risk, for the sake of their prisoners. And yet, what is at risk is all they have, life itself. So far as individuals are concerned, supreme emergency doesn't make a radical exception to rights normality. In war, as in domestic society, there are limits on what we can do in self-defense, even in extreme situations. A moral person will accept risk, will even accept death, rather than kill the innocent. But a moral president or prime minister or general will not accept the risk or the fact of communal death. Why not?

The first answer to this question has to do with the theory of representation. I can, morally and psychologically, accept risks for myself, but I can't, either morally or psychologically, accept risks for other people. If I possess political authority, I can impose risks, but I have only a limited right to do that (both the rights and the limits are implicit in the governmental contract). Soldiers, for example, are conscripted and then trained for risk-taking by the government in the name of the political community. But no government can put the life of the community itself and of all its members at risk, so long as there

are actions available to it, even immoral actions, that would avoid or reduce the risk. It is for the sake of risk-avoidance or risk-reduction that governments are chosen. That is what political leaders are for; that is their first task. This argument, however, faces a deep difficulty. If individuals have no right to save themselves by killing the innocent, how can they commission their government to do this on their behalf? They can't pass on rights they don't possess, hence their political leaders can do no more on their behalf than they might do themselves. Leaders can act to reduce or avoid risks only within the limits of rights normality.

The argument from representation doesn't work unless we add to it an argument about the value of the community.⁹ It isn't only individuals who are represented, but also the collective entity—religious, political, or cultural—that the individuals compose and from which they derive some portion of their character, practices, and beliefs. I don't want to say that the whole is greater than the sum of its parts, for I don't know how to sum the parts or set a value on the whole. A certain number of individuals can always be found—so it seems—who value the whole more than their own part; they are ready to risk their lives for their country. But it doesn't follow from this that they (or their leaders, acting on their behalf) are entitled to risk the lives of other people, who don't even live in their country. There can't be any such entitlement. The risks imposed on the others are criminally imposed. How can the community permit or require criminal actions?

Burke's description of the political community as a contract between "those who are living, those who are dead, and those who are yet to be born" helps us to see what is at stake here.¹⁰ The metaphor, I suppose, is inappropriate, since it is impossible to imagine the occasion on which such a contract could have been agreed to. But there is an important truth here nonetheless: we do try to carry on, and also to improve upon, a way of life handed down by our ancestors, and we do hope for recognizable descendants, carrying on and improving upon our own way of life. This commitment to continuity across generations is a very powerful feature of human life, and it is embodied in community. When our community is threatened, not just in its present territorial extension, or governmental structure, or prestige or honor, but in what we might think of as its *on-goingness*, then we face a loss

that is greater than any we can imagine, except for the destruction of humanity itself. We face moral as well as physical extinction, the end of a way of life as well as of a set of particular lives, the disappearance of people like us. And it is then that we may be driven to break through the moral limits that people like us normally attend to and respect.

By contrast, when we tell an individual soldier that he can't make the same break, we are telling him that he must risk death and even die within the moral limits so that his children and children's children can hope to live within them. It may be small comfort to a soldier facing death to know that people like himself will survive and continue to uphold the principles and practices he values (including rights normality, for if he didn't value that there would be no issue here). But that knowledge is comfort enough to rule out any claim he might make to exempt himself from the moral prohibitions. Take that knowledge away, and the claim begins to seem plausible: only then do we enter the terrible world of supreme emergency.

If the political community were nothing more than a neutral framework within which individuals pursued their own versions of the good life, as some liberal political philosophers suggest, the doctrine of supreme emergency would have no purchase.¹¹ It would indeed be a bad thing for individuals to lose the protection of such a framework, and they might be persuaded to accept some risk to their own lives in order to guard against that loss—though it's a hard question, first posed by Thomas Hobbes, the first theorist of the neutral framework, why anyone should die for a "community" whose substantive meaning only he can provide, and only so long as he is alive.¹² In any case, this kind of a person, facing this kind of a loss, can hardly drag other men and women (and children) into the war zone, from which he is likely to make his own escape as soon as he can. The license of supreme emergency can only be claimed by political leaders whose people have already risked everything and who know how much they have at risk.

The fact that a "communitarian" political theory helps to explain the meaning of supreme emergency might well be taken as an argument against communitarianism. For if we didn't value the community (however we conceive community: people, nation, country, religion, common culture) in this intense way, we might fight fewer wars and face fewer emergencies: fewer emergencies, and none of them supreme.

In an international society composed of countries that were nothing more than neutral frameworks, or in an international society that was itself one big neutral framework, individuals pursuing their private projects might find many occasions for quarrels and even for fights but few for wars: they would have every reason to stop short of the kinds of risk that war involves. But this is only to say that life would be safer without emotional entanglements. The statement is obviously true but not very helpful.

Supreme emergency is a communitarian doctrine. But to say that is not to diminish the moral significance of the individual. Communities need, and can't always find, morally strong citizens, soldiers, political and military leaders. And *morally* strong is very strong indeed, for what the community requires of individual citizens and soldiers is that they risk their lives, first for their fellow countrymen and then for the innocent members of other countries. And what it requires of its leaders is that they impose risks and sometimes, in rare and terrible moments, take on the guilt of killing the innocent. We may doubt that moral strength is really required in this last instance: many, perhaps most, of the political leaders who figure in the history books or in our own memories of twentieth-century history seem to have had no difficulty killing innocent people. They had no sense of the guilt involved; they were simply criminals. A morally strong leader is someone who understands why it is wrong to kill the innocent and refuses to do so, refuses again and again, until the heavens are about to fall. And then he becomes a *moral criminal* (compare Albert Camus's "just assassin")¹³ who knows that he can't do what he has to do—and finally does.

III.

Provocation and paradox again: and yet this is not an idiosyncratic argument; I didn't make it up. It conforms to the professional ethic of the soldier as this has developed over the course of time, and also to the professional ethic of policemen, firemen, and merchant sailors, all of whom are required to risk their lives to protect the innocent. And it also conforms to the doctrine of "dirty hands," according to which

political and military leaders may sometimes find themselves in situations where they cannot avoid acting immorally, even when that means deliberately killing the innocent.¹⁴ The effect of the supreme emergency argument should be to reinforce professional ethics and to provide an account of when it is permissible (or necessary) to get our hands dirty. The argument is essentially negative in character, as arguments have to be, I think, when they are focused on extreme cases: it isn't permissible (or necessary) when anything less than the on-goingness of the community is at stake, nor when the danger that we face is anything less than communal death. In most wars, the issue never arises; there are no supreme emergencies; rights normality holds unquestioned sway, even at the moment of defeat. In a war over this or that piece of territory, for example, we are not called upon to calculate how many innocent lives the territory is worth. If we are considering a strategy that involves deliberate murder (I leave aside questions about the side-effects of legitimate military actions), the territory has to be deemed worthless, and innocence, as rights normality holds, beyond price.

Even in wars where the stakes are very high, they may not be so high at every moment in the course of the war as to bring the supreme emergency argument into play. Each moment is a moment-in-itself; we make judgments again and again, not once for each war. My own claim that the British bombing of German cities might have been defensible in 1940 and '41 extends no further than those years. The bulk of the bombing that actually took place is certainly not defensible, for it took place after it had become clear that Germany could not win the war. The triumph of Nazism was no longer an imminent danger. Nor was the continued bombing designed (as it might have been) to deter or defeat the Nazi war against the Jews. The Holocaust might have constituted a new supreme emergency, but it did not figure in the minds of the men who decided on bombing policy; they did not conceive themselves to be acting on behalf of the community of European Jewry.

The evil of Nazism suggests the positive form of the supreme emergency argument: it is *that* sort of evil, uncommon even in the long history of human violence, that pushes us beyond rights normality. The more ordinary sorts of military defeat, political subjugation, the

establishment of puppet regimes and satellite states—none of this qualifies as a similar “push,” for in these cases we commonly expect the physical and moral survival of the defeated nation; we even look forward to its renewed resistance. Conventional conquerors like Alexander or Napoleon leave behind more or less intact political and religious communities. It was the Nazi intention, at least in central and eastern Europe, not to do that; and even in the west, a long-term Nazi triumph would have brought a loss of value greater than men and women are morally obliged to bear. Only a prospect like that invites—and then only insofar as it also requires—an immoral response we do what we must (every legitimate alternative having been exhausted). And if we can see clearly, with the help of such an example, when rights normality can be over-ridden, we can also see clearly why it can't be over-ridden short of that. For the over-riding is also a loss of value, of exactly the sort that we anticipate from the other side and hope to avoid. In supreme emergencies, we imitate our worst enemies (as the bombing of Germany imitated the bombing of Coventry and the London blitz), and that is not something to which we can ever be reconciled.

It follows from this argument that supreme emergency is a condition from which we must seek an escape. Mostly, we will want to escape, for we will dread the dangers we face and abhor the immoral acts to which we are driven. But just as a “state of emergency” may be politically convenient for leaders who prefer to rule outside the law, so a state of supreme emergency may be morally convenient for leaders who wish to dispense with prohibitions and taboos. It is not always the case, of course, that emergencies are temporary in character; great dangers can persist over time. But we are morally bound to work against the persistence, to look for a way out, lest we be thought to view our dirty hands with less than abhorrence. The obvious example here is the contemporary “balance of terror” generated by the deterrent policies of the two great powers. I suggested in *Just and Unjust Wars* that nuclear deterrence is commonly defended, and rightly defended, in terms that follow closely the lines of the supreme emergency argument. Were terror unbalanced—so both sides believe—country and culture, people and way of life, would alike be at risk. And so we permit ourselves to threaten the same terrorism that we fear: the destruction

NOTES

1. Winston Churchill, *The Gathering Storm* (New York: Bantam Books, 1961), p. 488.
2. Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 1977), chapter 16.
3. Churchill himself was entirely straightforward: see *The Hinge of Fate* (New York: Bantam Books, 1962), p. 770: the aim of the bombing was "to create conditions intolerable to the mass of the German population." This is from a memorandum written in July, 1942.
4. For an effort to escape the contradictions (using examples from domestic society rather than from war), see Alan Donagan, *The Theory of Morality* (Chicago: University of Chicago Press, 1977), pp. 184-189.
5. These two positions are put forward in near classic form in Thomas Nagel, "War and Massacre" and R. B. Brandt, "Utilitarianism and the Rules of War," which appeared together in *Philosophy and Public Affairs*, vol. 1, no. 2 (winter 1972).
6. See, for example, Ronald Dworkin, *Taking Rights Seriously* (Cambridge, Mass.: Harvard University Press, 1977).
7. Machiavelli, *The Discourses*, Book I, chapter ix.
8. But see Telford Taylor, *Nuremberg and Vietnam: An American Tragedy* (Chicago: Quadrangle Books, 1970), p. 36.
9. In a critical review of *Just and Unjust Wars*, Kenneth Brown writes that "throughout his work, Walzer identifies the highest human aspirations with the supremacy of the nation-state." Brown, "'Supreme Emergency': A Critique of Michael Walzer's Moral

Justification for Allied Obliteration Bombing in World War II," in *The Journal of World Peace*, vol. 1, no. 1 (spring 1984). No, I make no argument for the "supremacy" of the nation-state, only for its existence, and only insofar as its existence serves the communal purposes described below.

10. Edmund Burke, *Reflections on the Revolution in France* (London: J. M. Dent, 1910), p. 93.
11. On the neutral state, see Ronald Dworkin, "Liberalism," in *Public and Private Morality*, ed. Stuart Hampshire (Cambridge: Cambridge University Press, 1978).
12. See Hobbes's discussion of military service in *Leviathan*, Part II, chapter xxi and my own commentary, "The Obligation to Obe for the State," in *Obligations* (Cambridge, Mass.: Harvard University Press, 1970).
13. *The Just Assassins, in Caligula and Three Other Plays*, trans. Stuart Gilbert (New York: Vintage, 1958).
14. See my "Political Action: The Problem of Dirty Hands," in *Philosophy and Public Affairs*, vol. 2, no. 2 (winter 1973).



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